



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 29.06.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

TR.C.M.P(MD)No.222 of 2017
and
C.M.P(MD)No.5032 of 2017

Rajavel ... Petitioner/Respondent/Husband

vs.

Asha ... Respondent/Petitioner/Wife

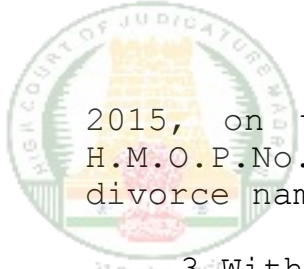
Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 r/w Section 151 of the Civil Procedure Code praying this Court to withdraw the case in H.M.O.P.No.739 of 2015 from the file of Family Court, Madurai District and transfer the same to the file of Sub-Court, Virudhunagar to be tried along with H.M.O.P.No.5 of 2013.

For Petitioner : M/s.G.Mariappan
For Respondent : Mr.J.Mathesh

ORDER

The husband seeks transfer of H.M.O.P.No.739 of 2015 filed by the wife on the file of Family Court, Madurai District under Section 9 of the Hindu Marriage Act, seeking restitution of conjugal rights.

2.It is seen from the records that the husband had already filed H.M.O.P.No.5 of 2013, on the file of Sub-Court, Virudhunagar seeking divorce on the ground of cruelty. Almost two years thereafter, the wife had filed a Petition in H.M.O.P.No.739 of 2015 before the Family Court at Madurai. From the 'B' Diary extract of H.M.O.P.No.5 of 2013 produced, it is seen that the entire evidence has been recorded in H.M.O.P.No.5 of 2013 and it was posted for orders on 24.4.2017. It appears that on 24.4.2017, the learned Subordinate Judge, Virudhunagar has re-opened the same for clarification regarding pendency of H.M.O.P.No.739 of 2015. In the above circumstances, I do not think that there is any necessity to transfer H.M.O.p.No.739 of 2015 to Sub-Court, Virudhunagar which would only further delay the proceedings. Admittedly, the entire evidence has been recorded, arguments have been heard and the case has been posted for judgment. Hence, there will be a direction to the Sub-Court, Virudhunagar to proceed to pronounce the judgment in H.M.O.P.No.5 of 2013, de-horse the pendency of H.M.O.P.No.739 of



2015, on the file of Family Court, Madurai. The proceedings in H.M.O.P.No.739 of 2015 will follow the result of the Petition for divorce namely H.M.O.P.No.5 of 2013.

3. With the above observation, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected Miscellaneous Petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Judge,
Family Court,
Madurai.

2. The Subordinate Judge,
Virudhunagar.

+ 1 CC TO Mr.G.MARIAPPAN, ADVOCATE IN SR No. 62563
+ 1 CC TO Mr.J.MATHESH, ADVOCATE IN SR No. 63208

VSN

TE/KP/SAR-III : 06/07/2017 : 2P/5C

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